IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 6113 OF 2003

Army Welfare Society and Anr. ...Petitioners

Versus

State of Maharashtra & Ors. ...Respondents

.....

Mr. S.A. Sawant, counsel for Petitioners

Mr. M.H. Solkar, A.G.P. for Respondents 1 & 2.

Mr. Salunke with Mr. S.K. Srivastava i/b S.K. Srivastava & Co. for Respondents 3 and 4.

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CORAM: B. H. MARLAPALLE, J.

DATED: 28TH MARCH, 2005

P. C.:-

1. Heard Mr. Sawant, the learned counsel for petitioners, Mr. Salunke the learned counsel for respondent Nos. 3 & 4 and Mr. Solkar, the learned A.G.P. for respondent Nos. 1 and 2.

2. By the impugned order dated 20.8.2003 passed by the respondent No.2, the non defence personnel, about 75 in numbers and claiming to be the members of the petitioner society were granted voting rights in the election that was scheduled to be held on 24.8.2003. The petitioner contends that due to the status quo order passed by this Court, the elections could not

proceed further. Whereas the respondent Nos. 3 and 4 submitted that the elections to the Managing committee were held on 11.7.2004 and the change report was submitted to the respondent No.2 to that effect on or about 25.10.2004. Mr. Sawant, the learned counsel for the petitioners has pointed out that the said change report is not in keeping with the provisions of the bye-laws and more particularly the bye-law No.IX which is regarding the formation of the Managing Committee. It states that the Managing Committee shall consist of not less than 11 members (defence personnel) of the Society. Mr. Sawant contends that non defence personnel cannot be the members of the Managing Committee. This issue will have to be considered by the Assistant Charity Commissioner and it is not for this Court to decide the same in the instant petition. Admittedly, there is no provision in the bye-laws which debars non defence personnel to be the members of the petitioner society and it is now submitted that non defence personnel membership is not 75 as at present but indeed it has increased to about 200.

3. This petition is, therefore, disposed of with liberty to the respective parties to address or agitate on the issue regarding the eligibility to contest as members of the Managing Committee and it is clarified that non defence personnel members have

a right to vote.

4. If the petitioners challenge the change report purported to have been submitted on or about 25.10.2004 within a period of two weeks from today, it is directed that the respondent No.2 shall decide the petition on their own merits as expeditiously as possible and in any case within a period of two months from filing the petition. In the meanwhile the status quo as at present shall continue.

5. Certified copy is expedited.

IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION
CIVIL APPLICATION NO. 1110 OF 2004
WITH
CIVIL APPLICATION NO.1111 OF 2004
WITH
CIVIL APPLICATION NO. 497 OF 2005
IN
WRIT PETITION NO. 6113 OF 2003

Army Welfare Society and Anr. ...Petitioners

Versus

State of Maharashtra & Ors. ...Respondents

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Mr. S.A. Sawant, counsel for Petitioners

Mr. M.H. Solkar, A.G.P. for Respondents 1 & 2.

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CORAM: B. H. MARLAPALLE, J.

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P. C.:-

. In view of disposal of writ petition No. 6113 of 2003, these civil applications do not survive and the same are disposed of as such.